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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,465	03/25/2004	Thierry Dupuis	066829-5101	6282
9629	7590	05/09/2007	EXAMINER	
MORGAN LEWIS & BOCKIUS LLP 1111 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004			HUYNH, NAM TRUNG	
ART UNIT		PAPER NUMBER		
2617				
MAIL DATE		DELIVERY MODE		
05/09/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/808,465	DUPUIS ET AL.	
	Examiner Nam Huynh	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 12 March 2007.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 3-11 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 3-11 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5)  Notice of Informal Patent Application  
6)  Other: \_\_\_\_\_

## DETAILED ACTION

This office action is sent in result of the Pre-Brief Appeal Conference decision filed on 3/12/2007. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. Claims 3-11 are pending in the application and no additional amendment was made prior to the amendment filed on 5/24/2006.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 3-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker (US 6,124,799) in view of Rodriguez (US 6,577,857).

Regarding claim 9, Parker discloses a method and apparatus for locking communications devices. In the scope of the invention, a handset is programmed at the time of manufacture (first locked) with an equipment identification number and a key

(locking key), which is to be used in the computation of an authorization (unlocking) checkword preferably a value specific to the handset itself (columns 6-7, lines 52-67, 1-3). The handset initially is locked and may only be used for activation and emergency calls. To unlock or activate the handset, a user powers on the handset and the handset dials any number (establishing a communication by using a calling number) and routes subscriber identification information to a mobile telephone base station (figure 4, item 106). A customer service center (CSC) that can comprise of customer service personnel or an automated system uses a received equipment ID from the handset (transmitting to said calling number, an unlocking request using digital data comprising an identification number of the mobile telephone) to compute a valid  $M_{\text{handset}}$  (unlocking information) and sends this to the handset (transmitting unlocking information to mobile telephone) (figure 4, item 116). Once this value is received by the handset, it is stored in memory and is used for unlocking itself (unlocking using the received unlocking information) (figure 5, item 172).

The invention of Parker is not limited to the entity in which the mobile handset is locked to. Parker teaches that the handset may be electronically locked to a particular service provider, to a particular network, to a particular reseller, or even to an individual (column 4, lines 35-40). Furthermore Parker teaches that during the activation process, the handset receives from a central facility information capable of being used to transform the unique, secure values of handset into secure information specific to the controlling entity (such as the operator, network, reseller, etc) (column 7, lines 38-43). However, Parker does not explicitly teach that the phone is locked to a manufacturer.

Rodriguez discloses a portable communication unit that operates based upon predetermined discrete blocks of airtime (abstract). In accordance with an embodiment of the invention, a user may contact the dealer or manufacturer of the portable communication unit (establish a communication using a calling number relating to the manufacturer) to obtain a code (unlocking information) that may be entered to activate an additional block of airtime (column 2, lines 41-44). Although in Rodriguez the unlocking information is used to activate additional airtime, the Examiner takes the position that Rodriguez teaches the sending of unlocking information by the manufacturer of a mobile device. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Parker to allow the user of the handset to alternatively contact the manufacturer, as taught by Rodriguez, instead of the service provider in order to unlock/activate the handset. This modification allows the manufacturer, which is the originator of the unlocking key, to be the controlling entity and adds efficiency to the method taught by Parker by eliminating the need to deliver keys from the manufacturer to the controlling operator (column 7, lines 33-34).

Regarding claim 10, Parker discloses that the subscriber identification information sent from the activation call is validated by a home location register (HLR) (figure 4, item 108).

Regarding claim 11, Parker discloses that the HLR identifies the subscriber and routes the call (establish communication) to the CSC (figure 4, item 110).

Regarding claims 3 and 4, Merriam-Webster defines transparent as “readily understood”. Therefore it is inherent that the HLR must understand the subscriber identification information in order to validate it.

Regarding claims 5 and 6, Parker discloses that the customer service center transmits a permanent subscriber information identification number to the handset via MSC and mobile telephone base station (column 8, lines 51-54). Furthermore, the customer service center transmits a modifier value,  $M_{\text{handset}}$ , which is the single key for all handsets within the operator's control (column 8, lines 60-63). In the system configuration of the combination of Parker and Rodriguez, the manufacturer (customer service center) would transmit a confirmation message (subscriber identification number and  $M_{\text{handset}}$ ) via the MSC (operator). Regarding claim 6, it would further be obvious that the message would be sent to the MSC or “operator” because the message is sent via the MSC therefore showing that the message is sent to both components of the system.

Regarding claim 7, Parker discloses that once the customer service center transmits the subscriber identification number and modifier value ( $M_{\text{handset}}$ ), the handset must re-register with the telephone base station and MSC using the new information (columns 8-9, lines 60-67, 1-18). Therefore showing different values for  $M_{\text{handset}}$  being sent to the MSC and the handset or else a re-registering procedure would not be necessary.

Regarding claim 8, Parker discloses that the transmission of the permanent subscriber information identification number is sent using an available messaging

function, such as GSM short messaging service (SMS), or similar capability available under an alternative mobile telecommunications standard (column 8, lines 54-57).

***Response to Arguments***

4. Applicant's arguments with respect to claims 3-11 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nam Huynh whose telephone number is 571-272-5970. The examiner can normally be reached on 8 a.m.-5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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NTH  
5/7/07

  
GEORGE ENG  
SUPERVISORY PATENT EXAMINER